

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JUNE 3, 2009**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of June 3, 2009, was called to order by Mayor Hansen at 5:45 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

C-2 Announcement of Closed Session

Jerry Glenn spoke in favor of retaining the practice of having an invocation at the beginning of the City Council meetings.

Arnie Prince spoke in favor of retaining the practice of having an invocation at the beginning of the City Council meetings.

- a) Government Code §54054.6(c); Potential Initiation of Litigation Regarding Breach of Dennis Plummer Improvement Agreement; Parties are City of Lodi and F&M Bank as Guarantor for Dennis Plummer
- b) Conference with Dean Gualco, Human Resources Manager (Labor Negotiator), Regarding Unrepresented Executive Management, Lodi City Mid-Management Association, Unrepresented Confidential Employees, AFSCME General Services and Maintenance & Operators, Police Mid-Managers, Lodi Police Officers Association, Lodi Police Dispatchers Association, International Brotherhood of Electrical Workers, Fire Mid-Managers, and Lodi Professional Firefighters and Conference with Larry Hansen (Labor Negotiator) Regarding City Council Appointees, Pursuant to Government Code §54957.6
- c) Threatened Litigation: Government Code §54956.9(b); One Case; Freedom from Religion Foundation Regarding Invocations

C-3 Adjourn to Closed Session

At 5:45 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:00 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:06 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Item C-2 (a), the City Council authorized instituting proceedings against F&M Bank with respect to collection on a letter of credit. Item C-2 (b) was discussion only, and Item C-2 (c) was discussion only and will be agendaized for consideration during an open session in the near future.

A. Call to Order / Roll call

The Regular City Council meeting of June 3, 2009, was called to order by Mayor Hansen at 7:06 p.m.

Present: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Invocation - Reverend Alan Kimber, First United Methodist Church

C. Pledge of Allegiance

D. Presentations

D-1 Awards - None

D-2 Proclamations

a) National Automotive Service Professionals Week (PW)

Mayor Hansen presented a proclamation to Clifford McKenzie, Heavy Equipment Mechanic, proclaiming the week of June 8 – 14, 2009, as “National Automotive Service Professionals Week” in the City of Lodi.

D-3 Presentations - None

E. Consent Calendar (Reading; Comments by the Public; Council Action)

Council Member Hitchcock made a motion, second by Council Member Mounce, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-1 Receive Register of Claims in the Amount of \$3,117,471.72 (FIN)

Claims were approved in the amount of \$3,117,471.72.

E-2 Approve Minutes (CLK)

The minutes of May 6, 2009 (Regular Meeting), May 13, 2009 (Special Meeting), May 19, 2009 (Shirtsleeve Session), May 26, 2009 (Shirtsleeve Session), and May 26, 2009 (Special Meeting) were approved as written.

E-3 Approve Request for Proposals and Authorize Advertisement for the Inspection, Adjustments, and Maintenance Tests of Two Power Transformers at Henning Substation

(EUD)

Approved the request for proposals and authorized advertisement for the inspection, adjustments, and maintenance tests of two power transformers at Henning Substation.

E-4 Accept Improvements under Contract for Sacramento Street Water Main Installation Project, Lodi Avenue to Alley South of Lodi Avenue (PW)

Accepted improvements under contract for Sacramento Street Water Main Installation Project, Lodi Avenue to Alley South of Lodi Avenue.

E-5 Adopt Resolution Accepting Improvements under Contract for the Blakely Park North Pool Deck Improvements, 1050 South Stockton Street (PR)

Adopted Resolution No. 2009-68 accepting the improvements under contract for the Blakely Park North Pool Deck Improvements, 1050 South Stockton Street.

E-6 Adopt Resolution Authorizing Extension of Agreement with Unifirst Corporation, of Stockton, for Rental and Cleaning of Uniforms for Certain Field and Warehouse Employees (\$26,000) (PW)

Adopted Resolution No. 2009-69 authorizing extension of agreement with Unifirst Corporation, of Stockton, for rental and cleaning of uniforms for certain field and warehouse employees in the amount of \$26,000.

E-7 Adopt Resolution Authorizing the City Manager to Execute Additional Professional Services Task Order with West Yost Associates, of Davis, for White Slough Water Pollution Control Facility Discharge Permit Compliance Activities (\$198,000) and Appropriating Funds (\$250,000) (PW)

Adopted Resolution No. 2009-70 authorizing the City Manager to execute additional professional services task order with West Yost Associates, of Davis, for White Slough Water Pollution Control Facility discharge permit compliance activities in the amount of \$198,000 and appropriating funds in the amount of \$250,000.

E-8 Adopt Resolution Authorizing the City Manager to Enter into Contract with InSite Environmental, Inc. to Prepare an Environmental Impact Report for the Lodi West 60kV Power Line Project to be Located West of the City of Lodi (CD)

In response to Council Member Johnson, Mr. King stated the proposed action is to approve entering into an agreement to prepare an Environmental Impact Report (EIR) and as a part of that EIR various routes will be studied. Mr. Morrow stated in December a consultant study identified the feasibility of various routes for the new power line and the EIR will more closely look at the various routes including a possible route down Highway 12.

In response to Mayor Hansen, Interim Community Development Director Rad Bartlam stated the proposal specifically calls out a variety of alternative routes and it should be completed in approximately eight months.

Council Member Mounce made a motion, second by Mayor Hansen, to adopt Resolution No. 2009-74 authorizing the City Manager to enter into contract with InSite Environmental, Inc. to prepare an Environmental Impact Report for the Lodi West 60kV Power Line Project to be located west of the City of Lodi.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: Council Member Johnson

Absent: None

- E-9 Adopt Resolution Approving Contract with Lodi Unified School District to Provide After School Staff Support for the Bridge Program at Eight Locations During Fiscal Year 2009-10 (\$335,440) (PR)

Adopted Resolution No. 2009-71 approving contract with Lodi Unified School District to provide after school staff support for the Bridge Program at eight locations during fiscal year 2009-10 in the amount of \$335,440.

- E-10 Adopt Resolution Authorizing the City Manager to Execute the Direct Payment Program Agreement with the State of California Department of Community Services and Development for the Term of July 1, 2009 through June 30, 2012 (CM)

Adopted Resolution No. 2009-72 authorizing the City Manager to execute the direct payment program agreement with the State of California Department of Community Services and Development for the term of July 1, 2009 through June 30, 2012.

- E-11 Adopt Resolution Ratifying the San Joaquin Council of Governments' Annual Financial Plan for Fiscal Year 2009-10 (PW)

Adopted Resolution No. 2009-73 ratifying the San Joaquin Council of Governments' Annual Financial Plan for Fiscal Year 2009-10.

F. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Robin Rushing spoke in regard to his concerns about the safety and studies regarding artificial turf and suggested a moratorium be placed until further results from studies can be obtained.

Clifford Weaver spoke in regard to his concerns about the transit system, the differential between the GrapeLine and VineLine, preferences for the disabled, and the costs associated with a records request. City Attorney Schwabauer stated the Freedom of Information Act does not apply to Mr. Weaver's request as it is governed by the California Public Records Act. Mr. Schwabauer stated a requester is free to inspect public records at no cost, but he would pay a fee of ten cents per page if he wished to obtain copies of such records. City Clerk Johl confirmed that a variety of records are available on-line through e-Records at no charge.

G. Comments by the City Council Members on Non-Agenda Items

Council Member Mounce requested staff look at the services provided through the GrapeLine

and VineLine as she has received some concerns from citizens and agendize the matter for a future Shirtsleeve Session. She also reported on the League of California Cities' efforts to keep the State from taking additional monies away from local government, possibilities for design build for the water treatment plant, and a possible constitutional convention for the November 2010 ballot.

Mayor Hansen stated he would be closing the meeting in memory of Joan Dutra who recently passed away. He also reported on his attendance at the Northern California Power Agency meeting where the status of litigation was discussed.

H. Comments by the City Manager on Non-Agenda Items

City Manager King stated staff will look into the concerns presented by Mr. Weaver and will bring additional information back to Council.

I. Public Hearings - None

J. Communications

J-1 Claims Filed Against the City of Lodi - None

J-2 Appointments

- a) Appointments to the Greater Lodi Area Youth Commission: Elizabeth Mazzeo, Jeffrey Palmquist, Summer Pennino (Adult Advisors); Gordon Wong, Deyanira Nava, Mandy Majidian, Priyank Patel (Student Appointees) (CLK)

Council Member Mounce made a motion, second by Council Member Johnson, to make the following appointments:

Greater Lodi Area Youth Commission

Adult Advisors:

Elizabeth Mazzeo, Term to expire May 31, 2012

Jeffrey Palmquist, Term to expire May 31, 2012

Summer Pennino, Term to expire May 31, 2012

Student Appointees:

Gordon Wong, Term to expire May 31, 2011

Deyanira Nava, Term to expire May 31, 2011

Mandy Majidian, Term to expire May 31, 2011

Priyank Patel, Term to expire May 31, 2011

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

J-3 Miscellaneous - None

K. Regular Calendar

K-1 Receive Budget Presentation, Invite Public Comments, and Adopt Resolution Approving

the City of Lodi Financial Plan and Budget for the Fiscal Year Beginning July 1, 2009 and Ending June 30, 2010 and Approving the Fiscal Year 2009-10 Appropriation Spending Limit (CM)

City Manager King provided a brief introduction and overview of previous presentations for the fiscal year 2009-10 budget.

In response to Council Member Hitchcock, Mr. King stated the proposed budget does not take into account what may happen with the State in the future because we do not know at this point what will happen and we are not sure when exactly the State will adopt its budget.

Deputy City Manager Jordan Ayers presented the proposed budget for the Internal Services Department for the 2009-10 fiscal year specifically discussing the department's anticipated expenditures, staffing, accomplishments, and goals.

In response to Council Member Hitchcock, Mr. Ayers stated the professional services line item includes payment to HDL, external auditor, and undesignated consultant services. Mr. King stated HDL more than pays for its services because it reviews and verifies the proper allocations from the State to the City.

Electric Utility Director George Morrow presented the proposed budget for the Electric Utility Department for the 2009-10 fiscal year specifically discussing the department's anticipated expenditures, staffing, accomplishments, and goals.

In response to Mayor Hansen, Mr. Morrow stated the current open position is approximately 10%, the next year is 20%, and the following year is 25%.

In response to Council Member Hitchcock, Mr. Morrow confirmed that the ultimate goal for the Energy Cost Adjustment (ECA) is 0, and in order to estimate the ECA average, the base rate is multiplied by the projected sales.

In response to Council Member Hitchcock, Mr. Morrow stated the 7188 line item transfer for \$358,000 includes staff allocations from this unit to other units in an effort to assign costs to the proper cost center. Further, Mr. Morrow stated the special payments line item includes the PILOT being listed separately from the debt service and in lieu taxes.

In response to Council Member Mounce, Mr. Morrow stated the overall Electric Utility revenue for this budget cycle is approximately \$72 million, of which \$6 million is related to the ECA.

In response to Council Member Johnson, Mr. Morrow stated State law requires the Utility to spend 2.8 percent of revenue on public benefit programs including low-income discounts and water at the Geyser fields. He stated the Utility has done well with outreach for the public benefit programs.

In response to Council Member Hitchcock, Mr. Ayers stated the budget is a plan and estimate and the key lies with where the expenses are actually charged. He stated the bottom line is that all the numbers are there, although the charges may be allocated to different line items.

Interim Community Development Director Rad Bartlam presented the proposed budget for the Community Development Department for the 2009-10 fiscal year specifically discussing the department's anticipated expenditures, staffing, accomplishments, and goals.

In response to Council Member Hitchcock, Mr. Bartlam stated the Development Code review will begin after completion of the General Plan so that the related changes can be incorporated.

In response to Mayor Hansen, Mr. Bartlam stated the Council already approved the Building Code fee schedule to allow for 90% recovery, staff is working on a revised hourly billing rate, and the matter will be coming back to Council for consideration in the near future.

In response to Mayor Hansen, Mr. Bartlam stated the impact fees are not a part of this activity, and the impact fee program will also go through a wholesale change after the General Plan is complete.

In response to Mayor Hansen, Mr. Bartlam stated the impact fee program will start with square one. Mr. King stated a different methodology can be used to calculate fees and will be reviewed when the new impact fee program is put together.

In response to Council Member Hitchcock, Mr. Bartlam stated the impact fee program will need to be significantly revised after the General Plan is complete, staff will still look to ensure that new development is paying for its services, and the conversation will likely occur in spring after the General Plan is completed.

Library Services Director Nancy Martinez presented the proposed budget for the Library Department for the 2009-10 fiscal year specifically discussing the department's anticipated expenditures, staffing, accomplishments, and goals.

In response to Mayor Hansen, Ms. Martinez stated the Phase 2 renovations will require more donations, the Library will be open at its original location in mid to late July, and in her opinion not everything is available on-line thereby diminishing the need for libraries and that which is on-line may not be valid.

In response to Council Member Johnson, Ms. Martinez stated there was no place else to cut the budget except the book budget, staff will only get what is necessary, and they will rely on the good reciprocal agreements they have with other local libraries.

In response to Council Member Hitchcock, Ms. Martinez stated literacy services will be maintained with a half-time person who is excellent in administering the program and dedicated tutors will continue to assist.

City Manager King provided a summary of the budget presentations, the efforts with the budget preparation to date, employee contributions in light of the ongoing decline in revenues, and bargaining group tentative agreements and status. Human Resources Manager Dean Gualco reviewed the chart providing an overview of the proposed tentative agreements.

In response to Council Member Hitchcock, Mr. Gualco confirmed that the Police Department total contribution was approximately \$1 million.

In response to Mayor Hansen, Mr. Gualco stated the Maintenance and Operators and General Services groups are aware that layoffs may result if no other concessions are provided.

In response to Council Member Hitchcock, Mr. Gualco stated that, while he does not have official notice of the same, a fire captain position may be retiring. Mr. King reviewed the total number of positions that may be subject to layoff, stating bumping rights would be applicable.

In response to Mayor Hansen, Mr. Gualco stated the total number of authorized employees is 459, budgeted is 426, and it would be reduced by 9 to 417 if layoffs are implemented.

In response to Council Member Mounce, Mr. King stated there is no increase in positions for the

City Manager, two existing positions were previously accounted for in another department, and costs for the same were assigned to the City Manager.

In response to Mayor Hansen, Mr. Ayers stated the reductions apply to the actual workforce and not unfunded positions.

In response to Council Member Mounce, Mr. Ayers stated the accounting clerk is a back office function, customer representatives are in the front office, and the one accounting clerk position has not been funded.

In response to Mayor Hansen, Mr. Ayers stated in Police there are approximately 13 vacant positions, of which 7 are sworn personnel.

In response to Mayor Hansen, Mr. King stated the approximate work force reduction is probably up to ten percent from the initially proposed seven percent.

In response to Council Member Hitchcock, Mr. King stated there was a very good dialogue with the labor groups, the basic pitch was that the work force can remain together with some common shared pain, and some groups took that approach while others did not for various reasons. Mr. King and Mr. Gualco listed out the following positions as being subject to layoff: Senior Administrative Clerk (Fire), Purchasing Technician (Finance), Building Inspector (Community Development), Community Improvement Officer (Police), Senior Planner (Community Development), two Maintenance Workers III (Public Works), three Firefighters (Fire), and a Battalion Chief (Fire).

In response to Council Member Hitchcock, Mr. King confirmed that agreement could not be reached through negotiations with a couple of groups through a variety of options.

In response to Council Member Mounce, Mr. Schwabauer stated that, with respect to a counter-proposal by General Services which included a cost of living adjustment increase based on growth in the general fund, there are existing Memorandums of Understanding in place and it was not a time to negotiate back and forth on those terms.

In response to Mayor Hansen, Mr. Morrow confirmed that the Electric Utility is the weakest link out of the 17 participants in Northern California Power Agency in having only 56 days cash on hand, which affects purchases and ratings. Mr. Morrow stated it took about three years to get to the \$13 million figure through some extraordinary things and on average the rise in the future should be approximately \$1 million per year.

Mayor Hansen opened up the item to receive public comment.

Mark Ruggerio, AFSCME president, spoke in opposition to the proposed layoffs based on his concerns regarding a lack of options to choose from and a counter-proposal not being brought to the Council.

Dave Towne spoke in opposition to the proposed layoffs based on his concerns regarding crossing enterprise funds with the general fund in positions and additional cuts to the Streets Division.

Ron Penix spoke in opposition to the proposed layoffs based on his concerns regarding the negative effect on training for firefighters.

Ken Sidle spoke in opposition to the proposed layoffs based on his concerns regarding the negative effects of losing firefighters in the community.

George Stilts spoke in opposition to the proposed layoffs based on his concerns regarding the need for a continued dialogue, unanswered questions, and a vehicle replacement offset.

Nicholas Kilday spoke in opposition to the proposed layoffs based on his concerns regarding the overall negative effects to the community from losing firefighters.

Linda Hoover and Cari Shates spoke in opposition to the proposed layoffs based on their concerns regarding the inability of a single administrative staff person to provide support for the department.

Michael Alegre spoke in opposition to the proposed layoffs based on his concerns regarding the negative effects of losing firefighters in the community.

Nathan Sharpshire spoke in opposition to the proposed layoffs based on his concerns regarding mistrust and miscommunication during the process. Council Member Johnson stated he did participate in the labor negotiations process and all information was properly conveyed to the City Council.

Chris Grades spoke in opposition to the proposed layoffs based on his concerns regarding safety for the community and negative effects on families. In response to Mayor Hansen, Fire Division Chief Aimee Murray stated the take away of fringe benefits would affect people. Fire Engineer Brad Doell stated they wanted to wait and see what happened with retirements. Mr. Gualco provided an overview of the negotiations with Fire. In response to Council Member Hitchcock, Mr. King stated the primary difference in the Police and Fire contributions is the vacancies.

Ron Heberle spoke in opposition to the proposed layoffs based on his concerns regarding the lack of an effort to continue communications and negotiating.

John Rolands spoke in opposition to the proposed layoffs based on his concerns regarding the negative effects of losing firefighters in the community.

Kim Heberle spoke in opposition to the proposed layoffs based on her concerns regarding the negative effects of losing firefighters in the community.

Sherry Moroz spoke in opposition to the proposed layoffs based on her concerns regarding the need for additional dialogue and a response to a counter-offer by the group.

Sandy Lewis spoke in opposition to the proposed layoffs based on her concerns regarding the negative effects of losing firefighters in the community.

Peter Iturraran spoke in opposition to the proposed layoffs based on his concerns regarding the validity of the numbers and the need for ongoing communication.

Michael Loel spoke in opposition to the proposed layoffs based on his concerns regarding the difference between losing firefighters through retirement and letting go active employees.

Mayor Hansen closed the time for receiving public comment on the matter.

A brief discussion ensued amongst the City Council and the City Manager regarding the ability to continue the item for one week until a special meeting to be held on June 10 in order to provide the two groups who have not yet reached agreement to have an opportunity to do so based on the comments received.

Council Member Hitchcock made a motion, second by Council Member Mounce, to continue this item, pertaining to approving the City of Lodi Financial Plan and Budget for the fiscal year beginning July 1, 2009 and ending June 30, 2010, and approving the Fiscal Year 2009-10 Appropriation Spending Limit, to a special meeting to be held on June 10, 2009, at 7:00 p.m.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Mounce, and Mayor Hansen

Noes: Council Member Johnson, and Mayor Pro Tempore Katzakian

Absent: None

K-2 Authorize Staff to Modify Labor Unit Memorandums of Understanding According to Signed Tentative Agreements (CM)

This item was not discussed.

K-3 Adopt Resolution Approving List of Lodi Energy Efficiency and Conservation Block Grant Fund Projects, an Element of the American Recovery & Reinvestment Act of 2009, and Authorizing the City Manager to Submit a Grant Application to the Department of Energy (EUD)

Council Member Hitchcock made a motion, second by Council Member Mounce, to adopt Resolution No. 2009-75 approving list of Lodi Energy Efficiency and Conservation Block Grant fund projects, an element of the American Recovery & Reinvestment Act of 2009, and authorizing the City Manager to submit a grant application to the Department of Energy.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

K-4 Council Direction Requested Regarding Response to the San Joaquin County Board of Supervisors for Armstrong Road Agricultural/Cluster Zoning Classification (CM)

This item was continued to the July 1, 2009, City Council meeting as the first regularly scheduled item.

L. Ordinances - None

M. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 12:02 a.m., in memory of Joan Dutra, mother of Park Superintendent Steve Dutra, who passed away on May 28, 2009.

ATTEST:

Randi Johl
City Clerk